

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Trustees of the LOCAL 7 TILE INDUSTRY
WELFARE FUND, Trustees of the LOCAL 7
TILE INDUSTRY ANNUITY FUND, Trustees
of the TILE LAYERS LOCAL UNION 52
PENSION FUND, and Trustees of the
INTERNATIONAL MASONRY INSTITUTE,

MEMORANDUM AND ORDER
No. 13-CV-925 (FB) (SMG)

Plaintiffs,

-against-

STAR CONSTRUCTION MARBLE &
GRANITE, INC. and STAR MARBLE &
GRANITE, INC.,

Defendants.
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Appearances:

For the Plaintiff:

MICHAEL BAUMAN, ESQ.
Virginia & Ambinder
111 Broadway
New York, NY 10006

For the Defendants:

BLOCK, Senior District Judge:

On June 21, 2013, Magistrate Judge Steven M. Gold issued a Report and Recommendation ("R&R") recommending that plaintiffs' motion for default judgment be granted and that judgment be entered in favor of plaintiffs in the total amount of \$29,686.61, as follows:

- (i) \$20,611.51 in delinquent contributions;
- (ii) \$4,122.30 in statutory liquidated damages;
- (iii) \$1,786 in attorney's fees and costs; and
- (iv) \$3,166.80 in audit costs.

In addition, he recommended that the interest on the delinquent contributions at the time final judgment is entered be calculated as follows:

- (i) on the \$17,528.18 Local 7 Benefits Funds delinquency, a rate of \$4.80 per day beginning April 1, 2010;
- (ii) on the \$3,083.33 International Benefit Fund delinquency, a rate of \$1.27 per day beginning April 1, 2010.

The R&R states that “[a]ny objections to the recommendations made in this Report must be submitted within fourteen days after filing of the Report and, in any event, no later than July 8, 2013.” R&R at 8. To date, no objections have been filed.

Where, as here, clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R & R without *de novo* review. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. See *Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

As no error appears on the face of Magistrate Judge Gold’s R&R, the Court adopts it without *de novo* review. Accordingly, the Court directs the Clerk to enter judgment against Defendants, Star Construction Marble & Granite, Inc. and Star Marble & Granite,

Inc., on January 13, 2014, in favor of plaintiffs in the amount of \$29,012.39.¹

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
January 13, 2014

¹ In arriving at that figure, the Court calculated \$6,643.20 in interest on the principal of \$17,528.18, by multiplying \$4.80 per day times the number of days spanning from April 1, 2010 to January 13, 2014. The \$1,757.68 in interest, on the principal amount of \$3,083.33, was calculated by multiplying \$1.27 per day times the number of days spanning that same period.